



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THOMAS LAI
Senior Counsel
E-mail: tlai@law.nyc.gov
Phone: (212) 356-2336
Fax: (212) 356-3509

October 21, 2022

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMORANDUM ENDORSED

Re: *Holmes v. Trapasso, et al.*,
21-CV-10628 (VEC)(GWG)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am writing on behalf of the Office of Corporation Counsel as an interested party in the above referenced matter. Interested party Office of the Corporation Counsel writes to respectfully request that the Court, *sua sponte*, grant an enlargement of time of thirty (30) days, from October 24, 2022 to November 23, 2022, for defendants Amanda Vanwieren-Johnson, James Trapasso, and Ralph Pena to answer or otherwise respond to the Amended Complaint. This is the second request for an extension for the individually named defendants to respond to the Amended Complaint and plaintiff's counsel consents to this request.

By way of background, Plaintiff brings this action, pursuant to 42 U.S.C. 1983, against defendants Vanwieren-Johnson, Trapasso, and Pena, alleging claims of malicious prosecution and denial of the right to a fair trial stemming from his arrest on or about November 23, 2010. *See Amended Complaint* (Dkt. No. 10) at 4. Plaintiff further alleges that, on or about September 14, 2021, all criminal charges against him were dismissed and the prosecution was terminated in his favor. *See id.*

As to the procedural history, Corporation Counsel's prior enlargement requests for defendant Vanwieren-Johnson, Docket Entry #21, and for defendants Trapasso and Pena, Docket Entry #30, were granted. *See Docket Entry #21, Docket Entry #31*. Pursuant to those requests, the

time for defendants to answer or otherwise respond to the Amended Complaint was enlarged to October 24, 2022. *Id.*

The enlargement requested herein is to allow defendants more time to investigate the underlying criminal matter that was alleged to be dismissed, including Plaintiff's incarceration status, and to consider the viability of a motion to dismiss. Upon information and belief, based upon the New York State Department of Corrections Incarcerated Lookup, Plaintiff continues to be incarcerated even after the alleged September 14, 2021 dismissal of criminal charges referenced in the Amended Complaint, Docket Entry #10. Further, the undersigned needs more time to obtain additional documentation which is needed in order to resolve representation with the individual defendants.

Therefore, for the reasons stated above, it is respectfully requested that the Court, *sua sponte*, grant an enlargement of time to November 23, 2022 for defendants Vanwieren-Johnson, Trapasso, and Pena to answer or otherwise respond to the Amended Complaint.

Thank you for your consideration of the instant application.

Respectfully submitted,

/s/ Thomas Lai

Thomas Lai

Senior Counsel

Special Federal Litigation Division

To: VIA ECF
Edward Sivin
Attorney for Plaintiff

The deadline for defendants Vanwieren-Johnson, Trapasso, and Pena to answer or otherwise respond to the Amended Complaint is extended to November 23, 2022.

So Ordered.



GABRIEL W. CORENSTEIN
United States Magistrate Judge

October 21, 2022